

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
SUMIT GARG,  
  
Defendant.

CASE NO. CR21-0045-JCC  
  
ORDER

This matter comes before the Court on Defendant's motion to compel (Dkt. No. 786). For the reasons stated herein, the motion is GRANTED in part and DENIED in part.

**A. Unmonitored Calls to Computer Expert**

This Court previously ruled on Defendant's request to make unmonitored phone calls to potential witnesses. (*See generally* Dkt. No. 192.) There, the Court weighed Defendant's right to access witnesses against the legitimate security needs and resource constraints of the prison. (*Id.* at 4.) Ultimately, the Court instructed the Bureau of Prisons ("BOP") to implement a system whereby Defendant would identify to BOP the calls he intended to make to potential witnesses.<sup>1</sup> (*Id.*) Defendant now alleges that the Government is in violation of that Order. (Dkt. No. 786.) In support, Defendant cites to various e-mail exchanges between his standby counsel, paralegal, and

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<sup>1</sup> That system requires Defendant to e-mail a "Unit manager" to schedule a call with his potential witnesses.

1 the Government. (*See* Dkt. No. 786-3.) Those e-mails suggest that Defendant has had a great  
2 deal of difficulty communicating with his computer expert. (*Id.* at 11.)

3 It is axiomatic that under our federal Constitution access to witnesses is fundamental, a  
4 deprivation of which prevents a defendant from meaningfully exercising his right to represent  
5 himself. *See, e.g., United States v. Sarno*, 73 F.3d 1470, 1491 (9th Cir. 1995). Accordingly, the  
6 Court hereby ORDERS the BOP to add Defendant's court-appointed computer expert, Gus  
7 Dimitrelos, to the list of people with whom Defendant may speak on the "legal phone" line  
8 within 7 days of this order. The Court further ORDERS the Government to ensure BOP  
9 compliance and to inform Defendant's standby counsel, Nicholas Vitek, once this has been  
10 completed.

11 **B. Videoconference Calls with Computer Expert**

12 Defendant also requests that he be permitted to make two-hour videoconference calls to  
13 his court-appointed computer expert twice a month. (Dkt. No. 786.) The Government opposes,  
14 arguing that this would require Defendant to be transported to the Special Housing Unit, thereby  
15 creating a security risk. (Dkt. No. 792.) Trial is scheduled for March 11, 2024. (Dkt. No. 794.)  
16 As such, Defendant's request would amount to one videoconference call prior to trial. Despite  
17 the Government's assertion otherwise, Defendant's request is reasonable.

18 Accordingly, the Court hereby ORDERS the BOP to permit Defendant to conduct a two-  
19 hour videoconference call with his court-appointed computer expert. It further ORDERS the  
20 Government to ensure BOP compliance and to promptly inform Defendant's standby counsel  
21 once this has been completed.

22 **D. Sanctions**

23 Finally, the Court finds that Defendant's motion does not set forth allegations warranting  
24 sanctions. *See Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir.2001)  
25 (stating that district courts have broad discretion to issue sanctions.)

26 Accordingly, Defendant's motion (Dkt. No. 786) is DENIED as to this issue.

DATED this 15th day of February 2024.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE